

The following letter was published in the *Stabroek News* on the 5th August 2000 under the caption "**This law should be amended**" and in the *Guyana Chronicle* on the 8th August 2000 under the caption "**Legislation silent on key issues**".

3rd August 2000

Dear Editor,

S.Y. Mohamed in *Stabroek News* of 31/7/00 highlighted the fact that the *Constitution (Amendment) Act 2000*, No. 2 of 2000 effectively shifted the power of declaring the President from the Chairman of the Elections Commission to the Chief Elections Officer.

Although draftspersons do not determine or initiate policy, they are responsible for offering proper advice to the policy makers and for pointing out any flaws in their ideas. Indeed, when drafting instructions are received, draftspersons must understand the policy, do the necessary research and must know whether the policy is constitutional, just and consistent with the moral values of society. They must also know whether any legal difficulties will be created. Proper draftspersons will never draft a law that could lead to chaos.

It is a sine qua non that those tasked with the drafting of legislation must have adequate academic training in the field of legislative drafting for, *inter alia*, it is the legislative drafting process that will test the soundness or weaknesses of the proposed law and how effective or ineffective the proposed law will work in practice.

Did the Amendment intend to make a mockery of the Elections Commission and its Chairman when it stated that the Chairman declares the President "acting only in accordance with the advice of the Chief Election Officer, after such advice has been tendered to the Elections Commission at a duly summoned meeting"?

It is submitted that the drafting of this provision could lead to a constitutional and political crisis. Having effectively removed the important power of declaring the President from the Elections Commission and thrust it upon the Chief Election Officer, the legislation does not provide for a misuse or abuse of this power by a single individual. There is no provision for offences and penalties. There is no solution if the Chief Election Officer delays or fails to advise the Elections Commission who shall be declared President. No alternative provision is made if the Chief Election Officer is unable to perform his functions or is absent from Guyana. There is no provision for the open and transparent selection of the Chief Election Officer. The legislation is silent on many important issues. These omissions could lead to a national crisis.

Did the Chief Parliamentary Counsel properly advise the government on this matter? This is an important consideration in a society already charged with high political tension caused partially by the now familiar cry of the PNC of fraudulent elections and their ensuing threats. What if the Chief Election Officer decided not to advise the Chairman of the Elections Commission who shall be declared President until a possible electoral dispute is resolved or for any other reason?

S.Y. Mohamed is right when he states that the servant and subordinate officer has now become the master and the master, a superior officer has now become the servant.

Yours faithfully,

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